

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	10/551,443	Confirmation No. :	2972
First Named Inventor	:	Roland H. EBERL		
PCT Filed	:	October 8, 2001		
TC/A.U.	:	2873		
Examiner	:	Jack DINH		
Docket No.	:	105743.56306US		
Title	:	Device and Method for Determining the Orientation of an Eye		

REPLY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the requirement set forth in the Office Action dated December 23, 2010, the species identified by the Examiner as "Group I, claims 13 and 27" is elected, with traverse, for prosecution on the merits. Independent claim 13, independent claim 27, and dependent claims 21-22 and 33-48 are considered readable on the species elected.

Reconsideration of the election requirement set forth in the Office Action is in order and is requested. Although MPEP 806.04(e) explicitly provides that claims themselves are never species, the election requirement set forth in the Office Action identifies the purportedly patentably distinct species by the claims themselves. The election requirement set forth in the Office Action is improper and should be withdrawn.

As is noted throughout the application and in the reply to the Office Action dated June 10, 2010, moreover, one object of the present invention is to provide a device and a method by way of which a position and/or orientation of an eye can

be determined based on the detection and analysis of light reflected by a part of the eye (see, for example, lines 1-7 on page 4 of the substitute specification). As described in the specification, the light can either be ambient light, which is incident on the eye, or light that is actively projected into the eye. A common feature exists in that the position and/or orientation is determined from light reflected by the eye. The system according to claim 49 uses a simplified architecture, as it relies on ambient light only, while the system and method according to claims 13 and 27 use actively projected light. Since the general approach and goal of the claimed inventions are similar, it is respectfully submitted that claims 13, 27 and 49 should be examined together.

If there are any questions regarding this Reply or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323, Docket No. 105743.56306US.

Respectfully submitted,

Richard R. Difendorf
Registration No. 32,390

January 18, 2011

CROWELL & MORING LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844
RRD:rd